



**STAFF REPORT  
ACTION REQUIRED**

**Availability of Candidate Protection Insurance For  
Candidates In The 2010 Municipal Election**

<b>Date:</b>	May 26, 2010
<b>To:</b>	Executive Committee
<b>From:</b>	City Manager
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2010\Internal Services\Cf\Ec10027cf (AFS #12225)

**SUMMARY**

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At its March 1, 2010 meeting Executive Committee considered the City Manager’s report on the “Feasibility To Create A Candidate Protection Fund To Be Funded By Candidates In The 2010 Municipal Election” and requested a report on the availability of an insurance product that provides candidate protection. Following an extensive search of the world wide insurance market, an insurance product for municipal election candidates has not been found. Such a program of coverage could not be developed because it can not be made to be mandatory for all candidates.

**RECOMMENDATIONS**

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**The City Manager recommends that:**

1. This report is received for information.

**Financial Impact**

There are no financial implications arising from this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial implications.

**DECISION HISTORY**

At its March 1, 2010 meeting, Executive Committee considered the City Manager’s report titled, "Feasibility To Create A Candidate Protection Fund To Be Funded By Candidates In The 2010 Municipal Election" and requested a report on the availability of

an insurance product that provides candidate protection. The Committee's decisions can be found at:

<http://www.toronto.ca/legdocs/mmis/2010/ex/decisions/2010-03-01-ex41-dd.htm>

## **COMMENTS**

Candidates for municipal office during an election or bi-election may be the subject of compliance audits relating to their campaign expenses. Election campaigns can also create other exposures for candidates such as legal challenges, defamation law suits, etc. Some candidates desire or require legal representation during such processes. Executive Committee has asked for this report on the availability of an insurance product that provides candidate protection to offset such various costs.

The issues that would need to be resolved for the provision of such protection are:

1. Providing protection that is reasonably affordable to candidates.
2. Extent of the City's involvement in administering, sponsoring or funding such protection plans.
3. Clarification of the extent to which the Municipal Elections Act, 1996 (MEA) limits the City's ability to support actions 1 and 2.

In examining options to provide a financial mechanism to offset costs to protect candidates it must be noted that the City is currently prohibited from establishing a mandatory candidate protection fund or administering or funding any protection fund or insurance policy for candidates. As such staff have pursued the option of identifying an insurance policy administered independently from the City and accessible by candidates voluntarily; insurance which is not mandatory.

City staff utilized the services of the City's Council authorized insurance broker, Marsh Canada Ltd. who initially advised that municipal election candidate protection insurance policies for legal expense arising from compliance audits, allegations of misuse of funds, errors, omissions, defamation, etc., currently does not exist. City staff then engaged Marsh to work with the insurance industry to help to design a program of coverage which included:

1. Specifying the types of coverage being sought, including specific perils and expenses to which the coverage would apply, negotiating financial limits of coverage, and deductible and premium amounts.
2. Providing data with respect to numbers of candidates likely to register for the election.
3. Providing information on past costs incurred by candidates relating to the coverage being sought.

As noted above, Marsh advised that municipal election candidate protection insurance policies currently do not exist and that the types of expenses to be insured are not typically underwritten by insurance companies. Also, premiums might be prohibitively excessive if such a program of coverage could be developed.

The criteria used by Marsh for their insurance market search is based on:

1. Obtaining advice from the London, UK insurance markets which provide global insurance coverage. London markets are well experienced and knowledgeable with international insurers that typically provide similar types of coverage.
2. The network of Marsh offices world-wide approach those insurance markets that are known to provide or likely to be interested in providing similar types of insurance coverages.

## **Insurance Market Response**

Marsh received responses from 5 North American markets and 6 London/International markets, all of which declined to provide coverage terms, conditions and premium quotations. Most insurers declined on the basis that the coverage could not be mandatory. Insurers can not establish premium pricing when the potential number of buyers is uncertain. Insurers indicated that potential claims under the policy could be substantial in relation to the possible premium amounts chargeable. Insurers felt that only high risk individuals would purchase such coverage leaving them vulnerable to the potential for high claim payouts. London and international insurance markets simply declined to provide coverage quotations on the basis that the insurance could not be made mandatory.

In addition to the commercial insurance market place, City staff also explored insurers that issue personal lines of coverage. Personal lines policies typically contain exclusions stating that they do not insure for claims arising from the publication or utterance of a libel or slander or of other defamatory or disparaging material, or a publication or utterance in violation of an individual's rights of privacy. Also, personal lines insurance policies are not designed to respond to business related ventures. Based on the advice of the insurance broker, staff conclude that election candidate protection can not be obtained from personal lines insurers.

## **CONTACT**

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## **SIGNATURE**

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